



DELTA STEWARDSHIP COUNCIL

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Certification of Consistency Form Instructions and Guide for State and Local Agencies

**A guide for preparing and submitting a
Certification of Consistency to the Council**

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Introduction

A state or local agency that proposes to undertake a covered action, prior to initiating the implementation of that covered action, are required to submit a written certification to the Council, with detailed findings demonstrating that the covered action is consistent with the Delta Plan. ([Water Code Section 85225](#)).

The Council requests that certifications of consistency be submitted electronically. The Council has developed an on-line certification of consistency form that will guide the user in submitting the necessary detailed findings of consistency. This document may be used to assist state and local agencies in preparing to fill out the certification of consistency in advance of using the on-line form.

Before beginning the certification process, you are also encouraged to visit the Council website (<http://www.deltacouncil.ca.gov/covered-actions>) and review all of the resources available including obtaining Early Consultation with Council staff.

A certification of consistency is required for each covered action. State and local agencies should carefully review each regulatory policy in the Delta Plan for guidance on what details to include and attach to the certification.

This guide is organized into four distinct parts:

- [Part I:](#) **Preparing a Certification of Consistency**
- [Part II:](#) **Submitting a Certification of Consistency**
- [Part III:](#) **Attaching Documents to the Certification of Consistency**
- [Part IV:](#) **Regulatory Policies and Appendices**

Part I

Preparing a Certification of Consistency

You must register for a user account with this system using an approved state or local agency e-mail address. If you have already registered, please login to create and submit a certification of consistency. If your agency is not listed in the system as an approved state or local agency, please contact Council staff at (916) 445-0513 to be added.

The on-line form will guide you through certification process; however, it is recommended that the agency collect all the documentation related to the certification of consistency, including the detailed findings as to whether the covered action is consistent with the Delta Plan, in advance of using the on-line form.

Once the on-line form has been initiated, the user may save the work in progress without having to complete and submit the form. The user may return at another time to make edits to the form, complete the form or submit the completed certification of consistency to the Council.

PLEASE NOTE: Once the user has clicked the submit button – the user will not have the option of making additional edits, but if necessary, the user will have the option of withdrawing the submitted certification of consistency.

All information in the Certification of Consistency form including agency and proponent profile details and all attached documents will be posted for public view.

Once registered and logged in, you will be required to enter the title of the covered action to begin the process (covered action title may be edited at any time before submission). The complete certification process includes 3 steps which are explained below:

Step 1 – Agency Profile - Create an agency profile for each covered action being submitted.

A. GOVERNMENT AGENCY:

Agency Type:

Agency Name:

Primary Contact:

Address:

City, State ZIP:

Telephone/Fax:

E-mail Address:

B. GOVERNMENT AGENCY ROLE IN COVERED ACTION:*

(check all that apply)

☐ Will Carry Out ☐ Will Approve ☐ Will Fund

Step 2 - Covered Action Profile - Complete all components in this area including all text and attachments if applicable. Click the link at the bottom of this section to attach any relevant documents. (See [Part III](#) for more details on submitting attachments).

IT IS RECOMMENDED THAT YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF AND/OR COMPLETE THE [COVERED ACTION CHECKLIST](#) TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION AND TO IDENTIFY RELEVANT REGULATORY POLICIES.

A. COVERED ACTION PROFILE:*

(choose only one)

☐ Plan ☐ Program ☒ Project

Title:

B. PROPONENT CARRYING OUT COVERED ACTION:

☐ Same as Agency

Proponent Name:

Address:

City, State ZIP:

 ,

C. AT LEAST 10 DAYS PRIOR TO THE SUBMISSION OF A CERTIFICATION OF CONSISTENCY TO THE COUNCIL, agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act [[Gov. Code sec 11120 et seq.](#)] or the Brown Act [[Gov. Code sec 54950 et seq.](#)]) with regard to its certification, must post for public review and comment, their draft certification on their website and in their office, and mail to all persons requesting notice.

Does this apply to your agency?*

☐ Yes ☒ No

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions.

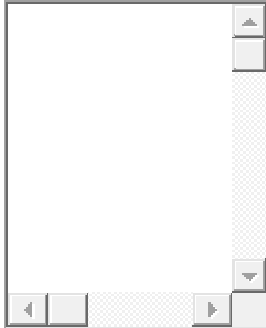
(Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.)

Yes = Please attach any supporting evidence of the public review and comment period in the upload section J. at

the bottom of this form.

D. COVERED ACTION SUMMARY: *

(Project description from the CEQA document may be used here.):



E. STATUS IN THE CEQA PROCESS:*

In Process ▼

F. STATE CLEARINGHOUSE NUMBER:

(if applicable):

G. COVERED ACTION ESTIMATED TIME LINE: *

Start and End Date:

 -

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: *

(round to dollars):

I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM:

(if applicable):

J. SUPPORTING DOCUMENTS You must upload evidence to support answer C.

Upload Documents

Attachment XXXX	
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(See [Part III](#) for more details on submitting attachments).

Step 3 – Consistency with Delta Plan - Complete all components in this area by selecting Yes, No, or Not Applicable. You will be prompted on each response to including justification and/or attach detailed findings to support your answer. (See [Part III](#) for more details on submitting attachments).

Yes = Please include detailed findings of consistency with this portion of the relevant regulatory policy.

You may click the upload button to attach detailed findings and also provide specific text regarding the attachment.

No = Please include clear identification of areas where consistency with this relevant regulatory policy is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Council on appeal.

N/A = Please confirm the reason this regulatory policy is not relevant to the covered action.

Delta Plan Chapter 2

[G P1 / 23 CCR SECTION 5002](#) – Detailed Findings to Establish Consistency with the Delta Plan.

In General: [\(23 CCR SECTION 5002 \(a\), \(b\), \(1\)\)](#) This regulatory policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action.

[Read More](#)

Specific requirements of this regulatory policy:

a. Mitigation Measures [\(23 CCR SECTION 5002 \(b\), \(2\)\)](#)

The covered action is not exempt from CEQA, and includes applicable feasible [mitigation measures](#) identified in the [Delta Plan's Program Environmental Impact Report](#), (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective.

Is the covered action consistent with this portion of the regulatory policy? [Click here for step-by-step questions designed to aid in answering this question and supporting that answer](#)

☐ Yes ☒ No ☐ N/A

b. Best Available Science [\(23 CCR SECTION 5002 \(b\), \(3\)\)](#)

The covered action documents use of best available science as relevant to the purpose and nature of the project.

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1A](#) is referenced in this regulatory policy.

☒ Yes ☐ No ☐ N/A

c. Adaptive Management [\(23 CCR SECTION 5002 \(b\), \(4\)\)](#)

The covered action involves **ecosystem restoration** or **water management**, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management.

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1B](#) is referenced in this regulatory policy.

☒ Yes ☐ No ☐ N/A

Please include detailed findings of consistency with this portion of the relevant regulatory policy, which shall be satisfied through both of the following:

- A. An adaptive management plan that describes the approach to be taken consistent with the adaptive management framework in [Appendix 1B](#) of the Delta Plan, and;
- B. Documentation of access to adequate resources and delineated authority by the entity responsible for the implementation of the proposed adaptive management process.

Delta Plan Chapter 3

[WR P1 / 23 CCR SECTION 5003](#) - Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Is the covered action consistent with this regulatory policy?

☐ Yes ☐ No ☒ N/A

[WR P2 / 23 CCR SECTION 5004](#) - Transparency in Water Contracting

Is the covered action consistent with this regulatory policy? [Appendix 2A](#) and [Appendix 2B](#) are referenced in this regulatory policy.

☒ Yes ☐ No ☐ N/A

Delta Plan Chapter 4

BEFORE COMPLETING THIS CHAPTER OF THE FORM, PLEASE REVIEW THE FOLLOWING:

Conservation Measure: [\(23 CCR SECTION 5002 \(c\)\)](#)

A conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was:

- (1) Developed by a local government in the Delta; and
- (2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013

is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

Is a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available?

☒ Yes ☐ No ☐ N/A

Please attach the statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife. **You will not be required to complete sections 5005 through 5009 if a statement is uploaded.**

[ER P1 / 23 CCR SECTION 5005](#) - Delta Flow Objectives

Is the covered action consistent with this regulatory policy?

☐ Yes ☐ No ☐ N/A

[ER P2 / 23 CCR SECTION 5006](#) - Restore Habitats at Appropriate Elevations

Is the covered action consistent with this regulatory policy? [Appendix 3](#) and [Appendix 4](#) are referenced in this regulatory policy.

☐ Yes ☐ No ☐ N/A

[ER P3 / 23 CCR SECTION 5007](#) - Protect Opportunities to Restore Habitat

Is the covered action consistent with this regulatory policy? [Appendix 4](#) and [Appendix 5](#) are referenced in this regulatory policy.

☐ Yes ☐ No ☐ N/A

[ER P4 / 23 CCR SECTION 5008](#) - Expand Floodplains and Riparian Habitats in Levee Projects

Is the covered action consistent with this regulatory policy? [Appendix 8](#) is referenced in this regulatory policy.

☐ Yes ☐ No ☐ N/A

[ER P5 / 23 CCR SECTION 5009](#) - Avoid Introductions of and Habitat for Invasive Nonnative Species

Is the covered action consistent with this regulatory policy?

☐ Yes ☐ No ☐ N/A

Delta Plan Chapter 5

[DP P1 / 23 CCR SECTION 5010](#) - Locate New Urban Development Wisely

Is the covered action consistent with this regulatory policy? [Appendix 6](#) and [Appendix 7](#) are referenced in this regulatory policy.

☐ Yes ☐ No ☒ N/A

[DP P2 / 23 CCR SECTION 5011](#) - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this regulatory policy?

☐ Yes ☐ No ☒ N/A

Delta Plan Chapter 7

[RR P1 / 23 CCR SECTION 5012](#) - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this regulatory policy?

☐ Yes ☐ No ☒ N/A

[RR P2 / 23 CCR SECTION 5013](#) - Require Flood Protection for Residential Development in Rural Areas

Is the covered action consistent with this regulatory policy? [Appendix 7](#) is referenced in this regulatory policy.

☐ Yes ☐ No ☒ N/A

[RR P3 / 23 CCR SECTION 5014](#) - Protect Floodways

Is the covered action consistent with this regulatory policy?

☐ Yes ☐ No ☒ N/A

[RR P4 / 23 CCR SECTION 5015](#) - Floodplain Protection

Is the covered action consistent with this regulatory policy?

☐ Yes ☐ No ☒ N/A

Part II

Submitting a Certification of Consistency

After completing Step 1, 2, and 3 of the on-line certification of consistency form, select the Review and Submit tab to confirm you have entered all required information. If you have successfully entered all the information correct, you will see the following message:

Well done!

Your form is ready to be submitted. Press the green "Submit to DSC" button below to submit your certification.

Only click the Submit button ONCE and wait for the screen to refresh.

Once submitted, the certification will automatically be posted on the Council's website for public view and no information may be revised or updated as the form will have read-only capabilities. If a certification of consistency requires deletion for any circumstances, you may elect to withdraw the certification. A unique ID will be generated for each certification of consistency submitted on-line for tracking purposes. Computerized time and date stamps are automatically posted in the system indicating the timeframe for the statutory appeals process to begin.

The certification of consistency status in the on-line system will initially show as "Public Review Period" on the Council website for 30 calendar days from the time of certification submission. If no person appeals the certification of consistency within 30 calendar days of submission, the status will change to "Covered Action Not Appealed" and the state or local agency may proceed to implement the covered action.

If a valid appeal is filed within the 30 calendar days of certification submission, the "Total Appeals" column in the on-line system will change to indicate the total number of valid appeals received for that covered action. The state or local agency and all parties involved with the covered action will be notified of any appeals filed.

Part III

Instructions for Attaching Documents to the Certification of Consistency Form

Overview

The Certification of Consistency form contains several areas that allow and/or require document attachments which may be relevant to the covered action. Any documents attached will be saved to the certification of consistency form and will be posted and available for public view.

Attachment Process

Any area that prompts with an "Upload Documents" button may be selected to open a dialog box for uploading your relevant detailed finding document(s). The dialog box will prompt you to browse for the relevant document(s) within your own computer files to attach to the form. You will also be able to provide a detailed text description clearly identifying specific areas of relevance to each attachment you provide. It is recommended that you give specific instructions regarding page references, etc. for identifying detailed findings within the attached document(s).

Attachment File Type

You may upload a read only document such as, such as a pdf file, If you are not able to attach your document to the Certification of Consistency form due to file size or other difficulties, please contact Council staff at (916) 445-5511 to discuss other options for submitting the attachment.

Part IV

Regulatory Policies and Appendices

Final Regulatory Text:

http://deltacouncil.ca.gov/sites/default/files/documents/files/DPregs1_File_CLEAN_0801.pdf

Appendices:

http://deltacouncil.ca.gov/sites/default/files/documents/files/FinalRegText_appendices_07262013.pdf

Combined Regulatory Text and Appendices:

http://deltacouncil.ca.gov/sites/default/files/documents/files/combined_DPregs1-FRT_appendices_082213.pdf